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TAGS: [PREL](#) [UNSC](#) [KWBG](#) [KPAL](#) [IS](#) [LY](#) [EG](#)  
SUBJECT: UNSC: COUNCIL MEETS AT LIBYAN REQUEST TO DISCUSS  
LIBYAN VESSEL DENIED ACCESS TO GAZA PORT

REF: A. TEL AVIV 2694  
[1](#)B. TRIPOLI 931

[1](#)1. (SBU) The Security Council met December 3 at Libya's request to discuss the Israeli Navy's action to deny entry of a Libyan vessel carrying humanitarian assistance to the port of Gaza. The Council invited both Israeli and Palestinian representatives to participate in the meeting. The Libyan Perm Rep asked the Council to take action to allow the vessel to enter the port and unload its cargo and to issue a press statement condemning the Israel action, which he also described as amounting to piracy. The Israeli Perm Rep criticized Libya for using its Security Council membership to call the meeting; said no member state would have allowed a ship from a hostile state to unload cargo in a territory from which it was being attacked; and said Libya could have delivered the assistance through the well-known delivery mechanisms. The Palestinian Ambassador called on Israel to end the "inhumane siege" on Gaza and comply with its obligations under international law. He called on the international community to not "remain on the sidelines." Ambassador Wolff said the Council was being asked to meet in response to a situation of Libya's own making; that Libya should have used one of the acceptable assistance delivery mechanisms; and that the Israeli Navy's action did not meet the definition of piracy under the Law of the Sea Convention, with which the UK DPR concurred. Ambassador Wolff also stressed that the humanitarian crisis in Gaza is due to the usurpation of the legitimate Palestinian government's authority by Hamas. All 13 other member states spoke and almost all focused on the need to keep the crossings into Gaza open to facilitate the transfer of humanitarian assistance. Several specifically objected to the manner in which Libya attempted to deliver its assistance. Only South Africa called for the opening of the Gaza port. At least six states recognized Israel's security needs and called for the end to the rocket attacks. There was no agreement on a press statement and the Libyan delegation did not pursue one further. End summary.

[1](#)2. (SBU) The Security Council held consultations late in the morning on December 3 to discuss two letters, dated December 2, 2008, from the Libyan Perm Rep to the Security Council President calling for the Council to meet urgently to discuss Libya's request to take urgent action to allow a Libyan ship that had been turned back by the Israeli Navy to be permitted to enter the Port of Gaza to unload its humanitarian cargo. Since the Provisional Rules of Procedure of the Security Council provide that any member of the Council may call a meeting of the Council, the Council agreed to meet that same afternoon to discuss the issue and also agreed to invite Israeli and Palestinian representatives to participate in the meeting.

Libya's brief  
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[1](#)3. (SBU) The Security Council met in a formal meeting late

on December 3 to discuss the subject raised by Libya. The Libyan Perm Rep spoke first and outlined his request to the Council. He said a Libyan vessel, the al-Marwa, laden with 3,000 tons of food, medicine, and other humanitarian assistance had been turned back by "Israeli gun boats" from approaching the port of Gaza. He asked the Council "to take the necessary urgent actions to allow the ship to enter the port and unload its cargo." He said Libya would allow the UN or the International Red Cross/Red Crescent to inspect the cargo to confirm that it is purely humanitarian. He said that when faced with the potential use of arms by the "gun boats," the Libyan vessel had no option but to head west away from Gaza. He said the Israeli ships forced the vessel to sail in a specific direction and said that Israeli aircraft flew overhead. He alleged that the Israeli ships' actions amounted to piracy since they continued to force the Libyan vessel to sail in a certain direction though it was more than 220 nautical miles from the Gazan coast. He asked the Council to agree to issue a press statement condemning the Israeli action and calling on Israel to comply with international humanitarian law, the Law of the Sea, and freedom of navigation on the high seas.

Israel's response

14. (SBU) The Israeli Perm Rep criticized Libya for using its Security Council membership to convene such a meeting, terming it a "provocative abuse of its role." She said, "No member state of this Council, nor any other member of the United Nations, would allow a shipment originating from a hostile state to reach a territory that serves as a launching

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pad for terrorist attacks against its civilians." She said that many states, even those without diplomatic relations with Israel, have delivered assistance to the Palestinians through the well-known assistance delivery mechanisms and did not resort to such "provocative, media events."

Palestinian brief: focused on humanitarian crisis, end to "siege"

15. (SBU) The Palestinian Ambassador praised Libya's attempt to deliver assistance to Gaza and regret that it was not successful. He described the humanitarian crisis in Gaza and the need to end "this inhumane siege and compel Israel to comply with its obligations under international law." He cited Article 33 of the Fourth Geneva Convention which prohibits an occupying power from imposing collective penalties and said the "17-month Israel siege has transformed the Gaza Strip into an open-air prison." He did not mention the Hamas take-over of Gaza. He said, "every sector of life in the Gaza Strip has been disrupted by this criminal, punitive siege." He said that the Palestinian leadership continues to "exert all efforts to advance the peace process and uphold its commitments" while Israel continues "its illegal practices and provocative actions." He reiterated the PA's readiness to assume responsibility for the Palestinian side of Gaza's border crossings. He said the international community "cannot remain on the sidelines as Israel continues to flagrantly and blatantly breach international law and UN resolutions." (Comment: Ambassador Wolff noted at the end of his remarks that Ambassador Mansour's lengthy, prepared remarks "would have enjoyed more credibility if he would have been able to simply repeat his leadership's own known views" on the take-over of Gaza. End comment.)

U.S. remarks

16. (SBU) Ambassador Wolff spoke fourth and expressed bafflement that the Council had been asked to meet by a Council member in reaction to a situation of its own making.

Given that Libya does not have diplomatic relations with Israel and the current heightened international sensitivity to unpredictable and uncoordinated maritime activity, he termed the Libyan action "dangerous and irresponsible" and said it is not surprising that the Israeli Navy reacted in the way it did. He noted the acceptable alternatives Libya could have utilized to successfully deliver its assistance and highlighted the November 26 Arab League Council statement assigning specific responsibility to the Arab League Secretariat to coordinate with Egyptian and Jordanian authorities to ensure the entry of assistance to Gaza. Ambassador Wolff concluded that "provocation and perhaps even propaganda was the intended objective of the Libyan vessel's activity." He underlined the reason the humanitarian crisis exists in Gaza -- the usurpation of the legitimate Palestinian government's authority by Hamas. (Note: Ambassador Wolff's remarks are posted on the Mission's Internet website at [www.usunnewyork.usmission.gov/press releases](http://www.usunnewyork.usmission.gov/press%20releases). End note.)

Both U.S. and UK counter Libyan  
allegations of Israeli piracy  
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17. (SBU) Both Ambassador Wolff and the UK DPR countered the Libyan Perm Rep's claims that the Israeli Navy's actions amounted to piracy. Ambassador Wolff said that the Libyan vessel's second attempt to enter the port of Gaza, according to media accounts from Tripoli, justified the Israeli Navy's decision to "escort the vessel beyond the territorial sea and into international waters." He said, "It cannot be said that Israel's actions constituted piracy under the Law of the Sea Convention. Piracy has a very specific meaning under international law, including that the act has been by a private ship for private ends. It is absurd to assert Israel committed an act of piracy." The British DPR also cited the piracy definition from the Law of the Sea Convention and said that because the matter involved "an Israeli naval ship it cannot constitute an act of piracy."

Many states object to Libya's delivery  
method but call for open crossings  
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18. (SBU) Several delegations, including the UK, Belgium, Croatia, and Italy, specifically objected to the manner in which Libya attempted to deliver its assistance. South Africa was alone in calling for the opening of the port of

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Gaza and said that Israel's security concerns should not be used as a justification for not allowing in humanitarian goods. Almost all Council members called for the land crossings to be opened regularly, if not continuously, to facilitate the transfer of humanitarian assistance. At least six Council members recognized Israel's security needs and called for an end to the rocket attacks, including Russia and Costa Rica. The Costa Rican Perm Rep called on Hamas to "place the needs of the Palestinian people before anything else." The French DPR noted that the Libyan ship issue puts into perspective the issue of access to Gaza by land and sea and said they would explore the issue with the Quartet at its upcoming meeting.

Libya does not pursue Council  
press statement  
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19. (SBU) While the Libyan Perm Rep had asked the Council to pursue a press statement, member states' remarks clearly illustrated that there was little support for the type of press statement proposed by the Libyans. By the end of the meeting, the Libyan Perm Rep said in his reply that he was satisfied that the meeting had been held and made no reference to further pursuing a press statement. (Note: The Libyan expert confirmed to PolOff December 4 that his mission

had no plans to pursue further the matter of their vessel but noted reports of a possible Qatari vessel that might attempt the same passage. End note.)

Wolff